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In re Application of REPASKY et al
U.S. Application No.: 10/518,038
PCT Application No.: PCT/IB03/00695
Int. Filing Date: 24 February 2003
Priority Date Claimed: 25 February 2002
Attorney Docket No.: 34876-CNT1
For: A PROCESS AND APPARATUS FOR THE
PRODUCTION OF SYNTHESIS GAS

COMMUNICATION

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 24 February 2003, applicant filed international application PCT/IB03/00695, which claimed priority of an earlier United States application filed 25 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 25 August 2004.

International application PCT/IB03/00695 became abandoned as to the United States for failure to timely pay the basic national fee.

On 10 December 2004, applicant filed a petition under 37 CFR 1.137(b).

On 27 May 2005, this Office mailed a decision granting the 10 December 2004 petition and according the application a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 December 2004.

DISCUSSION

A review of the application file reveals that the executed declaration contained therein applies to U.S. Application Number 10/083,778 and not to the present national stage application.

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Although the present application claims priority to U.S. Application Number 10/083,778, a copy of the declaration for a prior nonprovisional application may not be used for a national stage application. See MPEP 602.05(a), which specifies that a continuation application filed under 37 CFR 1.53(b) may be filed with a copy of a declaration from a prior nonprovisional application. MPEP 201.06(c) states in relevant part, "37 CFR 1.53(b) is the section under which all applications are filed EXCEPT: (1) an application resulting from entry of an international application into the national stage under 35 U.S.C. 371 and 37 CFR 1.494 or 37 CFR 1.495. . . ."

CONCLUSION

The paragraph in the decision mailed 27 May 2005 specifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this communication, including preparation and mailing of a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which should indicate that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.



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